

# **EXHIBIT 1**

**RPD 30(b)(6) Deposition - George  
Gillenwater**



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2 On behalf of the Petitioner:

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10 On behalf of the Respondent:

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18 Also Present:

19  
20 Chuck Habrack, Videographer  
21 Kelly Keglovits, Duke

22  
23  
24  
25

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Today is  
3 September 26th, 2022. The time is  
4 approximately 1:50 p.m. We are now on  
5 the record.

6 This is the beginning of media  
7 one in the 30(b)(6) deposition of  
8 Rockingham Police Department. The  
9 corporate representative is George  
10 Gillenwater. In the matter of Derrick  
11 Jovan McRae verse Eric A. Hooks, et al.  
12 The case is In The United States  
13 District Court For The Middle District  
14 of North Carolina, Case Number  
15 1:21CV577.

16 Today's location is 105 West  
17 Franklin Street, Rockingham, North  
18 Carolina 28379. My name is Chuck  
19 Habrack. I'm the videographer. The  
20 recorder is Kylie Fleming.

21 For the record, can counsel  
22 please introduce yourselves, whom you're  
23 representing, then the recorder will  
24 swear in the witness.

25 MR. LAU: Jamie Lau on behalf

1 of the petitioner, Derrick McRae.

2 MS. CALLAHAN: Kimberly  
3 Callahan on behalf of respondent.

4 MR. DUNN: And Zachary Dunn on  
5 behalf of the respondent.

6 And just before we get started  
7 -- well, do you want to swear in the  
8 witness first or --

9 THE COURT REPORTER: You  
10 can --

11 MR. DUNN: Okay. Just before  
12 we get started, I want to put our  
13 objection on the record. We object to  
14 the magistrate judge's limited discovery  
15 order, and should the district judge  
16 rule in our favor, we would further  
17 object to this deposition being used in  
18 any other proceeding. Thank you.

19 THE COURT REPORTER: Okay.  
20 And, Mr. Gillenwater, can you please  
21 raise your right hand.

22 Do you swear or affirm today  
23 to tell the truth, the whole truth, and  
24 nothing but the truth?

25 THE WITNESS: I swear, I do.

1 THE COURT REPORTER: Thank you  
2 so much.

3 And, counsel, you may -- you  
4 may begin.

5 MR. LAU: Yes. And also, I'd  
6 like to note for the record that  
7 Mr. Gillenwater is here on behalf of the  
8 Rockingham Police Department under Rule  
9 30(b)(6), as its designee. Pursuant to  
10 Rule 30(b)(6), the party receiving a  
11 subpoena is required to confer in good  
12 faith about the matters of examination.  
13 Counsel for petitioner communicated with  
14 the Rockingham Police Department via  
15 email about the meeting confer  
16 requirement and attempted to schedule a  
17 time to do so but has not heard prior to  
18 now from the Rockingham Police  
19 Department.

20 Accordingly, petitioner will  
21 proceed with the deposition today but  
22 reserves the right to recall  
23 Mr. Gillenwater or another individual as  
24 the designee to sit for another agency  
25 deposition, if -- if necessary.

1                               GEORGE GILLENWATER,  
2                               having been duly sworn,  
3                               testified as follows:  
4                               DIRECT EXAMINATION

5       BY MR. LAU:

6       Q. With that, I'd like to -- I'm Jamie Lau,  
7               and I represent Derrick McRae, Chief  
8               Gillenwater. And I like to generally  
9               ask first, you know, have you had an  
10              opportunity to speak with other  
11              individuals about the file in the  
12              Derrick McRae case?

13      A. Yes. Yes, I have.

14      Q. Okay. And what about historical file  
15              keeping for the Rockingham Police  
16              Department more generally?

17      A. I spoke to Chief -- prior Chief Billy  
18              Kelly about that time frame.

19      Q. Do you feel reasonably prepared to  
20              answer questions about recordkeeping  
21              practices of the Rockingham Police  
22              Department?

23      A. Probably not during that time frame, no.

24      Q. Okay. With regard to your discussions  
25              with Mr. Kelly, did you speak



1           specifically about that time frame?

2     A. I did.

3     Q. Okay. And what did he share with you  
4           regarding that time frame?

5     A. During the '96 time frame --

6     Q. Yeah, the --

7     A. -- specifically?

8     Q. -- time frame specifically from October  
9           of '95.

10    A. He said that he really wouldn't have had  
11       any knowledge about what the records  
12       process was back then, either. I think  
13       he was a patrol officer --

14    Q. Okay.

15    A. -- in '96.

16    Q. Did you speak with any of the officers  
17       involved with this case?

18    A. I did not.

19    Q. Robert Voorhees?

20    A. I have not.

21    Q. Chris Brigman?

22    A. I have not.

23    Q. Okay. Any other efforts to confer with  
24       others to determine the practices of the  
25       RPD during that period in time?

1 A. So my resources are very limited --

2 **Q. Fair enough.**

3 A. -- during that time frame. Pretty much  
4 Chief -- prior Chief Billy Kelly is --  
5 is my go-to resource --

6 **Q. Okay.**

7 A. -- during that time frame. I don't have  
8 a way of making contact with Robert  
9 Voorhees.

10 I asked Billy Kelly if he had  
11 a number or some way to make contact  
12 with him, and he said that the last that  
13 he had heard basically was that he was  
14 driving trucks and is out of town quite  
15 a bit and wasn't really sure how to make  
16 contact with him, either.

17 **Q. Okay. Understood. Can you describe**  
18 **your history with the agency?**

19 A. I started at Rockingham Police  
20 Department in 2006. I left briefly for  
21 about two years from 2012 to 2014 and  
22 was a special agent with the Department  
23 of Revenue Drug Techs, and I came back  
24 in 2014 to Rockingham Police Department.  
25 Much of my time was either in narcotics

1 or criminal investigations division, and  
2 I was promoted to chief of the  
3 department after Billy Kelly retired in  
4 December of last year.

5 Q. With respect to the file-keeping  
6 practices of the Rockingham Police  
7 Department, would you feel reasonably  
8 comfortable answering questions about  
9 those practices after 2006?

10 A. Yes.

11 Q. Okay. And prior to 2006, would you be  
12 able to describe any of the practices of  
13 the department before that time?

14 A. I would not be able to, no.

15 Q. Okay. You -- The agency, the Rockingham  
16 Police Department, received a subpoena  
17 in this matter dated August 31st, 2022,  
18 requesting agency records or RPD records  
19 related to an investigation in the death  
20 of Jeremy Rankin.

21 Specifically, that subpoena  
22 requested records from between the  
23 period of October 15th, 1995, to  
24 February 21st, 1996.

25 Can you describe the efforts

1       **made to locate records from that period?**

2       A. So I spoke with Billy Kelly, once again,  
3       and asked him of the whereabouts of the  
4       original file, because I -- up to this  
5       point, I had no dealings.

6                       My understanding was that this  
7       had come up in 2018, maybe, and he had  
8       to find the -- the file and the evidence  
9       for that proceeding.

10                      He told me that the file and  
11       the evidence were retrieved from the  
12       clerk's office after that proceeding and  
13       they're in a safe.

14                      I checked with my evidence  
15       technician, and he said that everything  
16       was still in place in the safe. And  
17       then I asked my file clerk to go back  
18       through the records in '96 to see if  
19       there was anything that was out of place  
20       that may have anything at all to do with  
21       this listed matter.

22                      Ms. Brisk said that she was  
23       unable to find anything that could be a  
24       part of this investigation. And also  
25       back then, there wasn't any Bates

1 stamping or anything like that. So  
2 short of there being an OCA number  
3 written on any paperwork, we really  
4 wouldn't be able to know if it was, you  
5 know, a part of the investigation,  
6 unless it noted a name or there was some  
7 photos or anything like that. And so --  
8 But we were unable to find anything.

9 **Q. So you asked your records custodian,**  
10 **just to clarify --**

11 A. Yes.

12 **Q. -- to review case files from 1996 --**

13 A. Yes.

14 **Q. -- to try and identify --**

15 A. Well, to go through the -- we have  
16 filing cabinets for each year. And we  
17 were in the process of -- of purging  
18 files, anyway. So while she was doing  
19 that, I asked her to go through and make  
20 sure that we weren't missing -- or if  
21 there wasn't any documents that were  
22 loosely in the filing cabinets, to see  
23 if, you know, it was pertinent to the --  
24 this -- this matter.

25 **Q. Is there a filing cabinet for 1995?**

1 A. There would be, yes.

2 Q. Do you know if she reviewed the 1995  
3 filing cabinet?

4 A. She did, yeah.

5 Q. Are all files maintained by the records  
6 custodian? Is that -- Can you describe  
7 just generally how files are stored --

8 A. Well --

9 Q. -- at the Rockingham Police Department?

10 A. -- right now, they're under lock and key  
11 in a file room. All prior murder cases,  
12 high-level felony cases, sexual  
13 assaults, rapes, things like that are  
14 kept separate. And myself and the  
15 assistant chief has access to the filing  
16 room, nobody else. We have to let the  
17 records clerk in if she needs to -- to  
18 get any out of there.

19 Q. How long has that been the process,  
20 where you or the assistant chief were  
21 the only ones with keys to --

22 A. As far as I know, that's been a process  
23 when Billy was the chief. Him and the  
24 assistant chief at the time, Major  
25 Grant, were the only two who had access

1 to the filing room.

2 Q. Okay. Now, you testified with respect  
3 to these records that they were kept in  
4 a safe, the records related to the McRae  
5 case. Is that safe in that filing room?

6 A. It is not. It's in a separate part of  
7 the police department.

8 Q. Okay. And do you know why the records  
9 here were separate from the records that  
10 were kept in the file room?

11 A. As I previously stated, my understanding  
12 was that this matter came before the  
13 courts in 2018, 2019. And Billy Kelly  
14 had spent some time trying to find that  
15 file and the evidence that went with  
16 that file.

17 And once those proceedings  
18 were done here in Richmond County, I  
19 guess it was -- it was his intent to put  
20 them in the safe so they would be easily  
21 accessible if the matter came up again.

22 Q. Did -- Did he describe those prior  
23 efforts to locate the file?

24 A. He -- Not to me, no.

25 Q. Okay. Anything else done with regards

1 to this search for records beyond --  
2 well, did you go to the safe and  
3 identify files in the safe?

4 A. I did not.

5 Q. Okay. So the files that are in the safe  
6 were represented to you by Mr. Kelly --  
7 or former Chief Kelly as being files  
8 that were produced back at an earlier  
9 time?

10 A. That's correct.

11 Q. Okay. Did he indicate that there were  
12 any records in there that may not have  
13 been produced?

14 A. He did not, no.

15 Q. Okay. With regards to the storage of  
16 electronic records, does the Rockingham  
17 Police Department have electronic  
18 records stored from the period dating  
19 back to October of 1995?

20 A. I honestly -- I would assume that we  
21 probably do, but I don't know --

22 Q. Okay.

23 A. -- with absolute certainty.

24 Q. Who would have access to the electronic  
25 records that potentially exist for the



1           **RPD?**

2       A. From -- From that time frame?

3       **Q. Yes.**

4       A. I mean, I would have --

5       **Q. Yes, sir.**

6       A. -- access to that if they're in the  
7       filing room.

8       **Q. Has anything been done to identify**  
9       **whether or not electronic records exist**  
10       **from the period of time between October**  
11       **15th, 1995, to February 21st, 1996?**

12      A. With -- Specifically in regards to this  
13      case, yes, but just in general, no. Not  
14      -- Not for this -- that generalized time  
15      frame.

16      **Q. Okay. Who did that search for**  
17      **electronic records?**

18      A. My records custodian.

19      **Q. Okay. And are there -- speaking for the**  
20      **agency, there are electronic files**  
21      **dating back that far; is that correct?**

22      A. I honestly don't know.

23      **Q. Okay.**

24      A. I -- I would assume if there was some  
25      audiotapes -- and I'm -- I guess that's

1        what you're referring to, because there  
2        wouldn't be a CD or a DVD -- but, yes,  
3        they would be -- they would be in the  
4        filing room.

5        **Q. What -- Beyond -- Beyond audiotapes,**  
6        **CDs, DVDs, what about electronically**  
7        **stored documents, documents that were**  
8        **scanned in or otherwise typed into a**  
9        **computer database or system dating back**  
10       **to this period in time?**

11       A. I'm not sure that we -- I'm not sure we  
12       would have anything like that --

13       **Q. Okay.**

14       A. -- from back then. I'd have to -- I'd  
15       have to go back and look.

16       **Q. Do -- Do you know when the general**  
17       **database began, when -- when**  
18       **investigative records --**

19       A. Yeah.

20       **Q. -- are being typed into a --**

21       A. Yeah, we're --

22       **Q. -- server base?**

23       A. -- probably a little behind the curve --

24       **Q. Okay.**

25       A. -- in that -- in that regard. I would

1 say Police-Pak RMS came to Rockingham  
2 maybe in '02 or '03.

3 Q. Okay.

4 A. So --

5 Q. And -- And Police-Pak, can you decide --  
6 describe that system?

7 A. That's our --

8 Q. Can you --

9 A. -- records management system.

10 Q. Okay. So now is everything digitized in  
11 that --

12 A. Yes --

13 Q. -- Police-Pak?

14 A. Yes, sir.

15 Q. Okay. And -- And you -- your  
16 understanding was that occurred sometime  
17 in the early 2000s?

18 A. That's correct.

19 Q. Okay.

20 A. Yes, sir.

21 Q. Prior to Police-Pak, was there any use  
22 of computers to store criminal  
23 information that you're aware of,  
24 investigation --

25 A. I don't --

1     **Q. -- infor --**

2     A. -- yeah, I don't know. That -- That was  
3     before my time.

4     **Q. Okay. Specific to the McRae matter, did**  
5     **you make any inquiries of former Chief**  
6     **Kelly or anyone else about the contents**  
7     **or knowledge of any contents of records**  
8     **from October 15th to February 21st,**  
9     **1996?**

10    A. No. My -- My general inquiry with him  
11    was, A, where is the file at? Because I  
12    didn't know where it was at to begin  
13    with. And, of course, he wanted to know  
14    what was going on, and I explained the  
15    situation to him, and that was pretty  
16    much the extent of it.

17                   He had mentioned that he had  
18    gone through this, like I said, in 2018  
19    to 2019, and he said that obviously if  
20    the file and evidence weren't in the  
21    safe, then it would still be with the  
22    clerk's office.

23                   Now, there was some confusion  
24    because I was calling it McRae and --  
25    and everybody else was calling it

1 Rankin. So there was a lot of  
2 confusion. So it took me some time to  
3 sort of figure out where everything was  
4 at. But once we got that sorted, it was  
5 apparent that everything was where it  
6 was supposed to be.

7 Q. Okay, in the -- in the safe.

8 With regards to the -- the  
9 file room, you said there's key access  
10 that you and the assistant chief has.

11 If -- If files are removed  
12 from the file storage room, is there any  
13 log or any records kept of the files  
14 being removed from that?

15 A. No.

16 Q. If I'm an investigator and I need to  
17 access a file, what are the pros --  
18 procedures for my gaining access to that  
19 file?

20 A. They would have to generate a request to  
21 either myself or the assistant chief.  
22 Typically they keep -- So at our  
23 department, the investigators keep a  
24 master file with themselves, and then  
25 there is a file that's kept in the file

1 room, and then there's also a digital  
2 file being on their computer.

3 So there really wouldn't be  
4 any need now for them to go into the  
5 file room. I can't think of a time that  
6 -- that any of the detectives have  
7 needed to go into the file room to pull  
8 a file, because they have access to it  
9 on -- through the cloud, through their  
10 own copies, CD, things like that,  
11 because we have to make -- they have to  
12 make two investigative files. They have  
13 to send one through to the DA's office  
14 through DAS, so there's a record there.  
15 They typically keep a -- a record on  
16 their computer or laptop, as well.  
17 So...

18 **Q. So the materials that they have access**  
19 **to through the cloud would be identical**  
20 **to the materials that --**

21 **A. Yes, sir.**

22 **Q. -- are kept there? Okay.**

23 **And with regards to the**  
24 **materials that -- I guess get**  
25 **transferred into that master file that's**

1       maintained, can you describe those --  
2       the general contents of -- of a master  
3       file that's stored --

4       A. Yeah.

5       Q. -- on a given case?

6       A. Yeah. Depending on the case, any  
7       interviews, the original report, any  
8       photographs that may have been taken,  
9       any audio or digital recordings that  
10      would have been taken, and, you know,  
11      pretty much everything that would have  
12      been done in the case is represented in  
13      the case file, and obviously now -- but  
14      everything is Bates stamped to ensure  
15      that someone's not missing something on  
16      either side.

17      Q. Okay. And -- And are officers'  
18      handwritten notes included --

19      A. Yes.

20      Q. -- in that?

21      A. Yes, sir.

22      Q. And -- And how far back do you recall it  
23      being the practice that everything that  
24      was a product of the investigation went  
25      into that master file that's stored --

1 A. Yeah. As long as -- since I started in  
2 '06, '07. I mean, that's always been  
3 the case. Discovery, you had to make  
4 sure that everything was -- was  
5 represented in that case file.

6 Q. Okay. Do you -- Do you have any -- any  
7 knowledge about -- going back to the  
8 period of time here, what was required  
9 to be kept in the master case file?

10 A. Just -- Just my assumptions, but, no, I  
11 don't know exactly what would have been  
12 required back -- back then.

13 Q. Okay. So if -- if -- if a file is in  
14 the file room, is there a log kept of  
15 that file when it's filed there  
16 indicating it being placed there and its  
17 location in the file room?

18 A. I don't believe so, no.

19 Q. Okay. Beyond that file room, do you  
20 know of any locations where historical  
21 or older files are kept by the  
22 Rockingham Police Department?

23 A. For a time period, there was an  
24 alternate storage facility in Robert L.  
25 It's an old building that the city



1 owned, and there were older files and  
2 evidence that was in there for some  
3 time.

4 **Q. Okay. And -- And -- And does that**  
5 **building still have files and evidence**  
6 **there?**

7 A. I don't know. I -- I haven't been down  
8 there in ten years or more. So --

9 **Q. Okay. So safe to say you -- if -- if**  
10 **material from this case exists there,**  
11 **you don't know?**

12 A. I wouldn't know.

13 **Q. You wouldn't know. Okay.**

14 **Now, with regard to those --**  
15 **those files, who are the -- who's --**  
16 **who's the custodian of the files there,**  
17 **stored there? Is it still the**  
18 **Rockingham Police Department?**

19 A. Yeah, if there's anything down there. I  
20 think Chief Kelly cleaned that area up  
21 or -- or, you know -- I don't know that  
22 there's anything that exists down there  
23 anymore, to be honest with you.

24 **Q. Okay.**

25 A. But, yeah, that -- that would be the

1 case.

2 Q. That would be the case?

3 A. Yeah.

4 Q. Okay. Have -- Have you ever known an  
5 agency file to -- to be kept offsite for  
6 any period of time before coming back to  
7 the Rockingham Police Department?

8 A. No, sir.

9 Q. Okay. Are you aware that Detective  
10 Voorhees testified that when he was the  
11 chief, he looked for the file and it was  
12 not located at the RPD?

13 A. I was not aware of that, no, sir.

14 Q. Okay. Is there any reason for a master  
15 file to be located offsite at any period  
16 of time?

17 A. Not that I can think of, no.

18 Q. Okay. With regards to conveying files  
19 or -- or producing files to the district  
20 attorney's office, can you generally  
21 describe what files are produced to the  
22 district attorney's office, how that  
23 file -- and -- and -- and how that  
24 production is made?

25 A. All felony files are produced to the

1 district attorney's office, and it's  
2 done so through a system called DAS,  
3 D-A-S.

4 Basically an investigator  
5 completes the case file, would have to  
6 do a -- basically a header sheet that  
7 describes the -- the crime committed,  
8 the -- the victim, the suspect, the date  
9 and time and place that it occurred.

10 And then the entirety of the  
11 file -- and there's a discovery  
12 certification page, which is an  
13 acknowledgment page saying the DA's  
14 office received the discovery -- all  
15 this is Bates stamped. We have a unique  
16 identifying number. Ours is -- starts  
17 with a 04. That's our agency one.  
18 And it's scanned in and then sent  
19 through this DAS system to the DA's  
20 office.

21 And my understanding is, is  
22 that one of the assistants there  
23 downloads it and either burns it to a  
24 disk or prints it out for both the  
25 district attorney and the defense

1 attorney.

2 **Q. Do you know at what point in time the**  
3 **RPD began using that system?**

4 A. I can give you a guess, because this  
5 happened while I was there. I think it  
6 was around 2009, 2010.

7 **Q. Okay. And prior to 2009, 2010, how were**  
8 **materials produced to the district**  
9 **attorney's office?**

10 A. Hand delivered.

11 **Q. And -- And what was a part of that**  
12 **delivery?**

13 A. Substantially the same -- the same  
14 stuff, just delivered by hand instead of  
15 via the DAS portal system.

16 **Q. Was there any meetings with officers**  
17 **making that delivery to discuss what was**  
18 **being received?**

19 A. I don't recall.

20 **Q. Any log that you're aware of documenting**  
21 **the transmission between the agency and**  
22 **the district attorney's office?**

23 A. Well, there was -- that certification  
24 page was still a part of the process, so  
25 you walk it over there and deliver it.

1       There may have been a counsel on it,  
2       depending on the -- the case matter.  
3       And then the -- the assistant would sign  
4       off saying she received it, and we'd  
5       sign off saying that we'd given it to  
6       them.

7                       They'd make a copy of the  
8       certification, and we kept it with --  
9       with our file.

10    **Q. Okay. And -- And do you know how long**  
11       **that practice was in place to receive a**  
12       **certification of the discovery being**  
13       **provided?**

14    A. I don't know.

15    **Q. Okay. Do you know in the McRae case if**  
16       **there's any certification indicating**  
17       **what materials were turned over?**

18    A. I don't.

19    **Q. With regards to the retention of**  
20       **records, what is the policy regarding**  
21       **the retention of records?**

22    A. So all -- all felony cases are  
23       maintained. Homicides are maintained  
24       for -- forever, but we follow the record  
25       retention laws, the guidelines set for

1 by North Carolina.

2 Q. So homicides are kept forever. You said  
3 that there's a -- a -- a purge of files  
4 going on in the current process?

5 A. Yeah. There was -- When I took over,  
6 because they didn't have RMS, you know,  
7 leading up to '02 or so, all those  
8 incident reports, accident reports, and  
9 things like that that could have been  
10 purged just were purged.

11 So following those record  
12 retention guidelines, we started  
13 removing some of that stuff to create  
14 some space in the file room.

15 Q. Okay. Speaking on the behalf of RPD,  
16 can you think of any reason why  
17 materials would be removed from one of  
18 these master case files?

19 A. I cannot.

20 Q. With respect to the McRae case or the  
21 Jeremy Rankin homicide investigation,  
22 are you familiar with the fact that  
23 Mr. Rankin was found deceased on the  
24 morning of October 15th, 1996 -- 1995?  
25 Excuse me.

1 A. Yes.

2 Q. Okay. And based on the prior subpoena,  
3 we're seeking records from between that  
4 time and February 21st, 1996.

5 With regards to the agency  
6 files, do you know of any other case  
7 where the first four months of records  
8 for -- from an investigation don't  
9 exist?

10 A. No, I don't.

11 Q. Would the agency ordinarily inspect  
12 records from the first four and a half  
13 months of investigation to an existing  
14 case?

15 A. Yes.

16 Q. And what sort of investigative  
17 activities would the agency generally  
18 expect to see in a record through that  
19 period in time?

20 A. The first four months of, I guess, just  
21 any homicide --

22 Q. A homicide investigation?

23 A. -- investigation, yeah. Probably a  
24 substantial amount of interviews, if  
25 there's any witnesses; interviews with

1 the defendant; photos of -- if an  
2 autopsy would have been done in that  
3 time frame, probably autopsy records;  
4 the initial report, we call that the 02,  
5 things like that.

6 **Q. You said if there are any witnesses. Is**  
7 **it the agency's practice to wait for**  
8 **witnesses to come forward?**

9 A. No, it is not.

10 **Q. So would it be the agency's practice to**  
11 **go out and start speaking to people --**

12 A. It would be.

13 **Q. -- immediately?**

14 A. Yes.

15 **Q. And would those interviews be**  
16 **documented?**

17 A. Yes.

18 **Q. And included in that file?**

19 A. Yes.

20 **Q. Do you know of any case where they've**  
21 **waited four months before going out with**  
22 **respect to a homicide investigation to**  
23 **interview witnesses?**

24 A. Not that I'm aware of, no.

25 **Q. Would you consider it unusual to wait**



1       four months before you inter -- go out  
2       and find people to interview in a  
3       homicide case?

4       A. I would, yes.

5       Q. Unheard of?

6       A. I've never heard of it.

7       Q. Okay. Do you know from Chief Kelly when  
8       and where the -- the file was first  
9       found?

10      A. I -- I don't re -- no, I don't remember  
11      if I've asked him or I just don't recall  
12      where he said he found the file at. I  
13      know -- I do remember him saying that he  
14      had to spend some effort in trying to  
15      locate the file.

16      Q. Okay. And did he describe those  
17      efforts?

18                   MS. CALLAHAN: I'm going to  
19      have to object for the record based on  
20      hearsay of what Officer -- or Chief  
21      Kelly --

22                   THE WITNESS: Chief Kelly,  
23      yeah.

24                   MS. CALLAHAN: -- told him, is  
25      -- is hearsay, so I'm going to object

1           for the record.

2     **Q. You -- You can go ahead and answer --**

3     A. Yeah.

4     **Q. -- whether he described --**

5     A. He did not describe, yeah.

6     **Q. Okay.**

7     A. He just said that basically he  
8       remembered having to spend a  
9       considerable amount of time trying to  
10      locate the file because it was -- it was  
11      coming up for -- for whatever the  
12      proceeding was in 2018, 2019.

13    **Q. Was that file -- Did -- Did he indicate**  
14    **whether or not that file was in the file**  
15    **storage room?**

16    A. Now, I don't -- let me correct myself.  
17       I apologize. I'm not sure if he knew --

18                   MS. CALLAHAN: I'm just going  
19       to go ahead for the record and just do a  
20       standing objection to this line --

21                   MR. LAU: Of course.

22                   MS. CALLAHAN: -- of  
23       questioning.

24    A. I don't -- I don't recall if it was the  
25       file specifically or just any and all

1 evidence related to the file  
2 specifically. So it may be that he was  
3 able to locate the file and not the  
4 evidence or the evidence and not the  
5 file. I'm not a hundred percent sure.

6 Q. Okay. So -- So at some point in time,  
7 former Chief Kelly indicated to you that  
8 he searched for records in this case,  
9 and you don't underst -- you don't know  
10 the full extent of what that --

11 A. I don't. I don't.

12 Q. -- was? Okay.

13 Are you aware, does the agency  
14 -- On behalf of the agency, are you  
15 aware of any files being lost at any  
16 period of time from the department?

17 A. I'm not, no.

18 Q. Now, there's been some renovations of  
19 the police department over time; is that  
20 correct?

21 A. That's correct.

22 Q. And do you know generally what was done  
23 to secure the files during the course of  
24 those renovations?

25 A. I do not know. Once -- Once again, that

1           was before I started.

2       **Q. Do you know when those renovations**  
3       **occurred?**

4       A. Not exactly, no. I think it was '01 or  
5       '02.

6       **Q. Okay. Have -- Have you had any**  
7       **conversations with other members of the**  
8       **Rockingham Police Department with**  
9       **regards to what took place during the**  
10       **first four months of -- of investigation**  
11       **in the Jeremy Rankin --**

12       A. I have not.

13       **Q. -- homicide case?**

14                       Do you know prior to 2006 the  
15       individuals who would have had -- had  
16       access to the case files in the  
17       Rockingham Police Department?

18       A. Not with -- Not with any certainty, I  
19       don't, no.

20       **Q. Are there some individuals that you**  
21       **would expect had access to the files?**

22       A. I would expect that possibly the chief  
23       and/or assistant chief then would have  
24       had access to the files.

25       **Q. And who was the chief when you started?**

1     A. Robert Voorhees.

2     **Q. And Chief Kelly seceded --**

3     A. That --

4     **Q. -- Mr. Voorhees?**

5     A. That's correct.

6     **Q. And prior to Mr. Voorhees, do you know**  
7         **who the chief of the agency was at that**  
8         **point in time?**

9     A. Chief Martin.

10    **Q. Okay. Do you know Mr. Martin's first**  
11       **name?**

12    A. He -- He goes by E.R. Martin --

13    **Q. We --**

14    A. -- I don't know --

15    **Q. -- we can --**

16    A. Yeah, I apologize.

17    **Q. That's okay. I appreciate that. And --**  
18       **And -- And at what point in time, do you**  
19       **know, was Mr. Martin -- or Chief Martin**  
20       **the chief?**

21    A. I'm not -- I'm not sure when Voorhees  
22       became chief in Rockingham.

23    **Q. Okay.**

24    A. He was the chief obviously when I  
25       started, and Mr. Martin was the

1 magistrate at the time when I started at  
2 the police department.

3 **Q. Okay. You said the assistant chief. So**  
4 **for as long as you can remember, the two**  
5 **people with access to the files were the**  
6 **chief and the assistant chief; is that**  
7 **right?**

8 A. I'm going to assume the assistant chief  
9 had access to the files, just because my  
10 assistant chief has access to the files,  
11 but I -- I can't speak with any  
12 certainty on that.

13 **Q. So -- So there is a file custodian, but**  
14 **they don't have direct access --**

15 A. They don't.

16 **Q. -- to the file room?**

17 A. No.

18 **Q. Has that always been the case?**

19 A. I don't know. I don't -- There's not  
20 really a need for them to have access to  
21 the file room now, but -- like I said  
22 before, because everything is in RMS.  
23 So they can answer most questions if  
24 someone were to call about a report or  
25 an incident via RMS because all the

1 notes that the investigators put in  
2 there are typed into RMS, as well.  
3 So --

4 **Q. Okay. What -- What is the role of that**  
5 **custodian if things are more or less**  
6 **electronically stored --**

7 A. It --

8 **Q. -- within the department?**

9 A. Well, right now, she is responsible for  
10 helping purge some of these older  
11 records out to create space for -- for  
12 new records.

13 She enters property. We still  
14 do property sheets. We're working  
15 towards digitizing that, but right now,  
16 you fill out a property sheet, you hand  
17 it to her, and she enters that into RMS.  
18 She'll answer any questions that someone  
19 may have, generalized questions about a  
20 report or investigation. She can look  
21 that up.

22 If it becomes a little more  
23 involved, then she transfers that over  
24 to the investigator who's handling that  
25 case.

1                   She also does NCIC entries for  
2       us and validations for us, as well.

3       **Q. Okay. Has the RPD ever conducted an**  
4       **audit of its files --**

5       A. Not that I'm aware --

6       **Q. -- since you've --**

7       A. -- of.

8       **Q. -- been -- specifically what it has in**  
9       **its possession?**

10      A. Not that I'm aware of.

11      **Q. Okay. Any effort to ensure that the**  
12      **contents of the 1995 file cabinet are**  
13      **indeed 1995 records and so forth for**  
14      **additional years?**

15      A. As far as the filing -- files, is that  
16      what you're --

17      **Q. Yes.**

18      A. -- the -- as far as -- yes.

19      **Q. So that effort has taken place to ensure**  
20      **that within the file storage space, the**  
21      **files are appropriately --**

22      A. Yes.

23      **Q. -- kept?**

24      A. Yes.

25      **Q. And are locations of those files**



1 something that is documented beyond --  
2 anywhere beyond just the -- going to the  
3 cabinet?

4 A. Just the filing cabinet? That's pretty  
5 much the -- the extent of it right now,  
6 yes.

7 Q. Okay. What training is done for  
8 officers with respect to their  
9 file-keeping practices and ensuring that  
10 all materials end up in that master case  
11 file?

12 A. So obviously they go through their basic  
13 law enforcement training, and then they  
14 go through an FTO program with us where  
15 we cover what's expected as far as being  
16 part of their felony file or if it's a  
17 misdemeanor case, what's expected to be  
18 in -- in their personal file, as well.

19 Q. And -- And an understanding of their  
20 personal file, those contents have to at  
21 some point in time be conveyed or  
22 placed --

23 A. Correct.

24 Q. -- in the master file, as well?

25 I just want to define some of

1       these things with you. The master case  
2       file is the full record of the  
3       investigation for the Rockingham Police  
4       Department; is that --

5       A. Correct.

6       Q. -- right?

7                       When you spoke with former  
8       Chief Kelly, the master case file in the  
9       Rankin homicide is presently stored in  
10      the safe?

11      A. That's correct.

12      Q. And you understood it to be the master  
13      case file in the Rankin homicide?

14      A. That's correct.

15      Q. Okay. And is there anybody other than  
16      you or the assistant chief with access  
17      to that safe?

18      A. I don't have access to the safe. Yeah.  
19      It's just not my property. The  
20      custodian has access to the safe.

21      Q. Okay. And has that been the case over  
22      the years, that the property custodian  
23      -- So -- So I want to -- I want to flesh  
24      this out a little bit.

25      A. Yeah.

1    **Q. So what's the difference between the**  
2       **file custodian and the property**  
3       **custodian?**

4    A. So the -- the property custodian, he  
5       handles -- once you fill out this  
6       property sheet and our property custo --  
7       or our file custodian enters it into our  
8       RMS system, you have to sign over the  
9       property to our property custodian, then  
10      he places it in the appropriate storage  
11      facility.

12                   Now, the safe -- the contents  
13      of the safe typically are just drugs,  
14      money, guns. We did have one other case  
15      that was in the safe. It was a  
16      homicide, as well, just -- and I can't  
17      recall why it was -- why it was placed  
18      in the safe, but for whatever reason,  
19      Chief Kelly put this into the safe, as  
20      well.

21   **Q. So is there a log of it going into the**  
22       **safe then?**

23   A. Yes, there should be. Yeah.

24   **Q. So moving forward from the time it's**  
25       **placed into the safe, it's in your**

1       property control system?

2       A. Correct.

3       **Q. And the property control system would**  
4       **generate a chain of custody any time**  
5       **that file subsequently would be**  
6       **accessed?**

7       A. Yeah. That's -- Well theoretically,  
8       yes. If that's how Chief Kelly had it  
9       entered into the safe, then, yes, there  
10      should be -- in RMS, but the problem --  
11      the problem would be is that this OCA  
12      wouldn't have even have existed for RMS.  
13      So in order for us to get an OCA, we  
14      have to call the ECOM, the central  
15      communications --

16      **Q. Okay.**

17      A. -- and they generate a case number,  
18      which we call an OCA. And we're able to  
19      use that to then generate property  
20      sheets and incident reports and things  
21      of that nature.

22                      So to say that it's in the  
23      system now, I don't know with any  
24      certainty. I can definitely look into  
25      that though.

1     **Q. Okay.**

2     A. Yeah.

3     **Q. So for your --**

4     A. There -- There should be a record of  
5         when he -- whoever picked this stuff up  
6         from the clerk's office after the last  
7         hearing or proceeding, and when it went  
8         back to the Rockingham Police  
9         Department, there should be a record  
10        probably here of that.

11    **Q. Okay.**

12                   MR. LAU: That would be all my  
13        questions.

14                   CROSS-EXAMINATION

15        BY MR. DUNN:

16    **Q. Good afternoon. I wanted to talk about**  
17       **just a couple of points here. Hopefully**  
18       **it won't take too much of our time.**

19    A. Okay.

20    **Q. So speaking generally of the time frame**  
21       **from 1995, just call it, to 1998, you**  
22       **weren't in law enforcement of any type**  
23       **at that time, were you?**

24    A. I still was in high school.

25    **Q. You were in high school, okay. So**

1 exactly what went on in those years,  
2 investigative activity, policies and  
3 lprocedures, you don't have direct  
4 knowledge of those --

5 A. I do not.

6 Q. -- from -- from dating back to that  
7 time?

8 A. No.

9 Q. You'd have -- You'd have to speculate?

10 A. Correct.

11 Q. Okay. So you testified a little bit  
12 earlier about -- you were asked like  
13 what -- what you would expect to see in  
14 a master case file, and one of the  
15 things -- some of the things that you  
16 mentioned were witness statements and  
17 anything that happened from the time the  
18 case was opened until -- I mean, just  
19 ongoing, I suppose --

20 A. Right.

21 Q. -- is that -- is that right?

22 A. Yes.

23 Q. Speaking of the McRae case or the Rankin  
24 case specifically, do you know if there  
25 was any witness statements collected

1       between October 14th, 1995, and March  
2       1st, 1996?

3       A. I do not.

4       Q. Do you know if any neighborhood  
5       canvassing was done between October  
6       14th, 1995, and March 1st, 1996?

7       A. I do not.

8       Q. So you don't know -- correct me if I'm  
9       wrong, do you know of something that  
10      should be in this specific McRae/Rankin  
11      file that is not in that file right now?

12      A. I have -- I would -- I would have no  
13      idea.

14      Q. Just --

15      A. Yeah.

16      Q. -- no idea?

17                    You testified a little bit  
18      about an offsite storage area that was  
19      used, and it may or may not be used at  
20      this time.

21      A. Correct.

22      Q. Do you know if the -- I think you  
23      referred to them as the felony case  
24      files, the -- the murders, rapes, those  
25      sorts of things, were they ever stored

1           offsite? Do -- Do you have any idea?

2       A. I -- I don't know.

3       Q. Okay. Especially going back to '95 --

4       A. No.

5       Q. -- ninety --

6                               Do you know if the storage  
7       area -- the offsite storage was used  
8       during '95, '98, any -- any of that time  
9       period?

10      A. I don't think there are -- any files  
11       were stored in that area. I think that  
12       older evidence was stored in that area.

13      Q. All right.

14      A. All the files were still in a filing  
15       cabinet --

16      Q. Okay.

17      A. -- is my understanding.

18      Q. And then again -- you state now, current  
19       procedure is -- for a certification of  
20       discovery to go back into your file  
21       after you've turned it over to the  
22       district attorney's office; is that  
23       correct?

24      A. That's correct.

25      Q. Are you -- Do you know if that was the





1 renovations.

2 Q. Okay. And you've done your very best  
3 efforts to comply with the subpoena to  
4 look for documents in this particular  
5 '95, '96 period of time?

6 A. Yes, ma'am. That's correct.

7 Q. And you did not find any?

8 A. No.

9 MS. CALLAHAN: Thank you. I  
10 don't have anything further.

11 MR. DUNN: No further.

12 REDIRECT EXAMINATION

13 BY MR. LAU:

14 Q. Just -- Just a couple additional  
15 questions. Speaking to the questions  
16 from respondent with respect to your  
17 knowledge of what transpired during the  
18 period of time between October 14th,  
19 15th, 1995, through March 1st, 1996, are  
20 -- are you aware that Detective  
21 Voorhees, former Chief Voorhees,  
22 testified that suspects from outside of  
23 the City of Rockingham were investigated  
24 in the case?

25 A. No, I was not aware of that.

1 Q. Would you expect to find the records of  
2 those suspects who were investigated in  
3 a master case file?

4 A. Yes, I would expect to see those.

5 Q. And were you aware they testified that  
6 they looked into Mr. Rankin himself  
7 during that investigation?

8 A. I was not aware of that.

9 Q. Would you expect to find out the  
10 information that they learned through  
11 the course of their investigation into  
12 Mr. Rankin in the master case file?

13 A. I would.

14 Q. Now, with respect to the files offsite,  
15 you testified that your understanding is  
16 that files were not stored there, but  
17 you do not have personal knowledge of --

18 A. I --

19 Q. -- what sorts of --

20 A. Yeah, I don't.

21 Q. And -- And you -- you -- you don't know  
22 specifically whether -- or if files or  
23 any Rockingham Police Department  
24 property still resides in that --

25 A. Not with --

1     Q. -- storage --

2     A. -- not with any certainty, no.

3     Q. Okay. You said you did not believe that  
4       the discovery certification existed back  
5       during this period of time, between 1995  
6       and 1998?

7     A. I don't think so, no.

8     Q. Do you have any indication of what it  
9       was -- you know, have you -- have you  
10      familiarized yourself, spoken with  
11      former Chief Kelly or anybody about what  
12      the agency's obligation to turn over to  
13      the DA's office at that period of time  
14      was?

15    A. I -- I did not ask him specifically what  
16      the obligation would have been in that  
17      timeline, and, honestly, he -- he may  
18      not know, because I think he was a  
19      patrol officer, but I would assume it  
20      was substantially the same. I mean,  
21      whatever is in your case file should  
22      be turned over to -- to the DA's  
23      office.

24                   MR. LAU: I have nothing  
25      further.

1 RECROSS-EXAMINATION

2 BY MS. CALLAHAN:

3 Q. Do you have any direct knowledge of  
4 whether police officers kept their  
5 investigative notes in their master file  
6 at that time?

7     A. I don't.

8 MR. DUNN: Thank you.

9 THE WITNESS: All right.

THE VIDEOGRAPHER: This concludes the deposition of corporate designee George Gillenwater, media number one. The time is 2:34 p.m. We are off the record.

15 (THE DEPOSITION CONCLUDED AT 2:34 P.M.)

1	ERRATA SHEET			
2	Case Name:	Derrick Jovan McRae		
3		vs.		
4		Erik Hooks		
5	Case Number:	1:21CV577		
6	Deponent:	George Gillenwater		
7	Date:	September 26, 2022		
8	PAGE	LINE	READS	SHOULD READ
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1 SIGNATURE

2

3 I, George Gillenwater, do hereby state  
4 under oath that I have read the above  
5 and foregoing deposition in its entirety  
6 and that the same is a full, true, and  
7 correct transcript of my testimony.

8

9 Signature is subject to corrections on  
10 attached errata sheet, if any.

11

12

\_\_\_\_\_  
George Gillenwater

13

14 State of \_\_\_\_\_

15

16 County of \_\_\_\_\_

17

18

19 Sworn to and subscribed before me this  
20 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

21

22

\_\_\_\_\_  
Notary Public

23

24 My commission expires: \_\_\_\_\_

25



1 CERTIFICATE

2  
3 State of North Carolina  
4 County of Wake

5 I, Kylie Fleming, a notary public in and  
6 for the State of North Carolina, do  
7 hereby certify that there came before me  
8 on the 26th day of September, 2022, the  
9 person hereinbefore named, who was by me  
10 duly sworn to testify to the truth and  
11 nothing but the truth of his knowledge  
12 concerning the matters in controversy in  
13 this cause; that the witness was  
14 thereupon examined under oath, the  
15 examination reduced to typewriting.

16 I further certify that I am not counsel  
17 for, nor in the employment of any of the  
18 parties to this action; that I am not  
19 related by blood or marriage to any of  
20 the parties, nor am I interested, either  
21 directly or indirectly, in the results  
22 of this action.

23 In witness whereon, I have hereto set my  
24 hand, this the 30th day of September,  
25 2022.

26  
27   
28 Kylie Fleming  
29 Notary Public  
30  
31  
32  
33  
34  
35

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